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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,143	02/20/2004	John D. Wilkey	2039.018800/RFE (210631US)	5387
37774	7590	07/13/2006	EXAMINER	
WILLIAMS, MORGAN & AMERSON 10333 RICHMOND, SUITE 1100 HOUSTON, TX 77042			MULLIS, JEFFREY C	
			ART UNIT	PAPER NUMBER

1711

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/784,143	Applicant(s) WILKEY ET AL.	
	Examiner Jeffrey C. Mullis	Art Unit 1711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-16, 18-26, 28-32 and 34-41 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-3, 5-16, 18-26, 28-32 and 34-41 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-16, 18-26, 28-32 and 34-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoshi et al. (WO 03/091303).

It is noted that US 2005/0222331 corresponds to the above document, cited by applicants and therefore as the US document is in English reference will be made to the US document.

Patentees disclose a styrenic block copolymer which may be tapered (paragraph 57) and coupled (paragraphs 56 and 105) and which may have applicants molecular weights (abstract) and be combined with a one or more of a "vinyl aromatic hydrocarbon polymer", "component (B)" in a ratio of 99/1-30/70 (paragraph 70). The component "B" may include SB rubber (paragraph 78) at a level of preferably up to 10 parts by weight (paragraph 79) as well as applicants styrene/acrylate copolymers (paragraphs 74 and 75).

All of applicants limitations are therefore taught by patentees by there are no actual examples of compositions having all of applicants limitations in combination at the same time. However to arrive at applicants composition by choosing from the disclosure of the reference would have been obvious to a practitioner having an ordinary skill in the art at

the time of the invention in the expectation of adequate results absent any showing of surprising or unexpected results.

Applicant's arguments filed 4-21-06 have been fully considered but they are not persuasive. With re to choice of solely applicants "a" component at paragraphs 71-73 for use with patentees required block copolymer, paragraph 70 discloses that "at least one selected from the following a) to c)" may be used and therefore there is ample motivation to choose "b" and "c". It is not the position of the examiner that the document anticipates the claims.

The term "block" appears nowhere in paragraph 78 of Hoshi (although admittedly applicants "STYRENE BUTADIENE RUBBER" reference indicates that "styrene butadiene rubber" may or may not be a block copolymer). Patentees at paragraph 78 disclose use of emulsion polymerization when desired to produce the rubber modified polymer, a process to the best of the examiners belief produces a core shell type structure (and produced from a "latex", a material usually containing carboxylate or other groups rather than a block copolymer to facilitate latex formation) but in any case the instant claims do not exclude rubber containing occlusions of styrene-acrylate copolymer whether or not there is a difference between grafted (and possibly occlusion containing) and non grafted blocks. Applicants argue that the grafted material is not a rubber. However paragraph 73 of Hoshi specifically refer to "rubber" modified styrene polymer. Paragraph 79 specifically refers to "impact" modified styrene polymers and as understood by those skilled in the art impact resistance in impact modified polystyrene is due to introduction of rubbery phase to confer impact resistance. Note further

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applicants "STYRENE PLASTICS" reference on page 1025 in the paragraph entitled "RUBBER MODIFIED POLYSTYRENE" at the second to last sentence in that paragraph disclosing that even when occlusions are present a significant portion of PS matrix is filled with "rubber". The final product described in "c" of the reference is therefore clearly a "rubber" (whether or not it imparts rigidity to the final product) even ignoring the broadest reasonable interpretation of "rubber" and viewing the term narrowly.

Any inquiry concerning this communication should be directed to Jeffrey C. Mullis at telephone number 571 272 1075, M-F, 9-5.

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7-6-06

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